

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

CRIMINAL NO. 1: CR-05-192

v.

MICHAEL K. HARLEY

M E M O R A N D U M

Before the court is a motion filed by the defendant pursuant to 28 U.S.C. § 2255 to which the Government has responded. The defendant did not file a reply brief. The matter is ripe for disposition.

The defendant was charged with wire fraud and pled guilty on June 30, 2005. He was sentenced on November 3, 2005 and filed an appeal on November 17, 2005. The district court judgment was affirmed on January 8, 2008 and the mandate was filed on February 4, 2008. The instant motion was filed on January 7, 2009.

Defendant's motion claims he received ineffective assistance of counsel in three areas. He claims his counsel did not obtain an itemized list of forfeited assets; that counsel refused to pursue distorted facts and misrepresentations; and that counsel failed to make arguments regarding three sentencing guidelines that may have resulted in a lower sentence.

In its brief in response to the defendants' motion, the government has cited appropriate case law which this court adopts. The court finds that further input and analysis from this court is unnecessary, particularly when the defendant

has not refuted any of the arguments raised by the government. The defendant's arguments are frivolous.

The defendant's arguments are frivolous and he has not shown that counsel's conduct fell below an objective standard of reasonableness or unfairly prejudiced the defense. An appropriate order will be issued.

s/Sylvia H. Rambo
United States District Judge

Dated: June 17, 2009.

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ORDER

In accordance with the accompanying memorandum, **IT IS HEREBY ORDERED THAT** the motion for writ of habeas corpus filed pursuant to 28 U.S.C. § 2255 is denied without a hearing.

s/Sylvia H. Rambo

United States District Judge

Dated: June 17, 2009.